

DOUGLAS L. RUSSELL, ET AL.

IBLA 77-300

Decided July 12, 1977

Appeal from a decision of the Alaska State Office, Bureau of Land Management, declaring Russell, Berring, and Berring No. 1, No. 2 and No. 3 mining claims null and void ab initio, F-23080.

Set aside and remanded.

1. Mining Claims: Lands Subject To—Mining Claims: Withdrawn Lands

A mining claim located on withdrawn land confers no right on the locator and is null and void ab initio. However, when BLM has so held claims to be null and void and it appears that the claims may not be invalid due to status factors, the case will be remanded for further consideration.

APPEARANCES: Douglas L. Russell, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

This relates to the appeal from a decision of the Alaska State Office, Bureau of Land Management (BLM), dated March 31, 1977, declaring Russell, Berring and Berring No. 1, No. 2 and No. 3 mining claims null and void ab initio because they are located on lands withdrawn from appropriation under the public land laws. That decision recited in part that the lands in issue were withdrawn from all forms of appropriation including location and entry under the U.S. mining laws by PLO No. 5250 on September 14, 1972.

On July 22, 1975, appellants recorded their mining claims situated at sections 2 and 3, T. 6 N., R. 3 E., Fairbanks Meridian.

In their Statement of Reasons appellants state they incorrectly drew the northwest corner of claim No. 1, and also incorrectly drew the location of claim No. 2. They drew another map with the help

of BLM personnel, and when drawn correctly claims Nos. 1 and 2 may not be situated on withdrawn land. Appellants stated they will be filing amended notices of their mining claims.

[1] A mining claim located on withdrawn land confers no right on the locator and is null and void ab initio. W. R. Strickler, 27 IBLA 267 (1976); John Boyd Parsons, 22 IBLA 328 (1975). When appellants first indicated the location of their mining claims, the claims were shown to be situated on withdrawn land and the BLM properly rejected the claims on that basis. However, BLM now recognizes that the claims may not be invalid by reason of status factors and wishes to have the case remanded for further consideration.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and the case remanded for appropriate action.

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Frederick Fishman  
Administrative Judge

We concur:

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Douglas E. Henriques  
Administrative Judge

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Joseph W. Goss  
Administrative Judge

